

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14975 of 2023

Arising Out of PS. Case No.-67 Year-2015 Thana- DESARI District- Vaishali

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DHIRAJ KUMAR SINGH @ DHIRAJ KUMAR Son of Mithilesh Singh R/v-
Khoksa Bujurg, P.S.- Desari, District- Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the Informant	:	Mr. Shravan Kumar, Sr. Advocate
For the Opposite Party/s	:	Mr. Anant Kumar 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-05-2023 Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner, Mr. Shravan Kumar, learned senior counsel appearing for the Informant and Mr. Anant Kumar-1, learned Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since 20.09.2022 in connection with Desari P.S. Case No. 67 of 2015, F.I.R. dated 27.03.2015 for the offences punishable under Sections 498(A), 307, 313/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act and later on police after investigation submitted the charge sheet under Section 498(A) of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

According to prosecution case, petitioner, who is



husband of the complainant/informant is said to have ousted the complainant/informant from her matrimonial home in association of her family member over the dowry demand.

Earlier the petitioner was granted provisional bail for six months and learned Court below is directed to issue notice to the informant for her appearance and the provisional bail of the petitioner will be confirmed within one year by the learned Court below in three eventualities.

- (i) On substantial restoration of the matrimonial harmony.
- (ii) If the informant get, reluctant to reconcile the issue, and
- (iii) If the informant fails to appear before the learned Court.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that pursuant to the direction of this Hon'ble Court in Cr. Misc. No. 45767 of 2015 that the petitioner appeared before the learned Judicial Magistrate on 16.05.2016 and he was allowed provisional bail and it appears from the order sheet of the Judicial Magistrate, 1st Class, Vaishali at Hajipur in Desari P.S. Case No. 67 of 2015



that the informant has filed an application on 14.11.2017 for cancellation of bail bond of the petitioner and pursuant to the order of learned Judicial Magistrate the petitioner has transferred Rs.10,000/- per month in the account of the informant and by order dated 20.03.2018, the bail bond of the petitioner was cancelled. Thereafter, the petitioner has filed the modification Application vide Cr. Misc. No. 43565 of 2018 in Cr. Misc. No. 45767 of 2015 and finally on 06.03.2019 the said modification application was dismissed due to non-appearance on behalf of the petitioner.

Learned counsel for the petitioner further submits that despite of best efforts the informant is not willing to live with the petitioner. The petitioner is Constable in Indian Tibetan Border Police (ITBP) and as per direction of the Court Rs.10,000/- per month is being deducted from the salary of the petitioner and is being transmitted in the account of the informant.

Learned counsel for the petitioner further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has never demanded any dowry and the petitioner is Constable in I.T.B.P. posted at Border area due to which he could not keep his wife at the place of his posting. The



petitioner is in judicial custody since 20.09.2022.

The learned senior counsel appearing on behalf of the Informant and learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioner and submits that the petitioner was granted provisional bail vide order dated 10.05.2016 in Cr. Misc. No. 45767 of 2015 on certain conditions but no effort was made by the petitioner to restore his matrimonial harmony, thereafter, the petitioner has filed Divorce Case being Divorce Case No. 49 of 2017 on 03.03.2017. Thereafter, the informant/opposite party no.2 has filed the Complaint Case No. 324 of 2019 for the offences under Sections 494 of the Indian Penal Code and the cognizance has been taken by the learned Court below vide order dated 02.04.2019. Finally, vide order dated 20.03.2018 the bail bond of the petitioner was cancelled and it appears from the aforesaid that the petitioner has not honored the order of this Hon'ble Court.

The learned senior counsel for the informant further submits that vide order dated 24.01.2022 passed in Cr. Misc. No. 28953 of 2019, the Hon'ble Court has directed the Superintendent of Police, Vaishali, to enquire into the matter and submit a report. The report dated 07.02.2022 of the



Superintendent of Police, Vaishali reveals that the petitioner got married with one Ratna Kumar D/o Sri Dharmnath Singh and Smt. Radha Devi, Resident of Village- Gaspur Bariyarpur, P.S. Rajapakar, District- Vaishali in the year 2017 itself and after the report of the Superintendent of Police, Vaishali, the petitioner has withdraw his application (Cr. Misc. No. 28953 of 2019) on 21.02.2022. It appears that the petitioner has granted protection from March, 2018 to February, 2022 on his false plea that he was ready to keep the informant/opposite party no.2 as wife with full dignity and honor and in view of the aforesaid, the petitioner is not entitled to enlarge on bail.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Vaishali at Hajipur in connection with Desari P.S. Case No. 67 of 2015, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two



consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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